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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/501,909	07/20/2004	Yasuhide Takata	2004-1117A	8664

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EXAMINER

MCPARTLIN, SARAH BURNHAM

ART UNIT PAPER NUMBER

3636

DATE MAILED: 03/29/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/501,909	Applicant(s) TAKATA ET AL.	
	Examiner Sarah B. McPartlin	Art Unit 3636	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 12 January 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 2 and 5-14 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 2 and 5-14 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 20 July 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| ✓ 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date <u>1/12/06</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Information Disclosure Statement

1. The information referred to in the information disclosure statements filed on January 12, 2006 has been considered as to the merits.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claim 8 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claim 8 recites a first link mechanism and a second link mechanism. Are these links in addition to the links recited in independent claim 2, or repetitive? Reciting independent elements with the same name creates ambiguity. Clarification is requested.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 2, 7-9, 10-12 are rejected under 35 U.S.C. 102(b) as being anticipated by Nagata (4,729,539). With respect to claims 2, 8, 10-11, Nagata discloses a frame

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structure (1) for an automobile seat, comprising: a frame (3) to be vertically moveably mounted on a vehicle floor (un-illustrated); a lifter (5)(6)(8)(9)(10)(11)(20) for adjusting a height of the frame (3); and a suspension unit (17) for absorbing vibration inputted to the frame; wherein the lift is integrally formed with the suspension unit given that suspension unit is permanently attached to lifter component (8) and comprises a torsion bar (20) to be rotatably mounted on the vehicle floor by way of lifter mechanism and lower frame element (2); wherein said lifter further comprises a first link mechanism (6) through which the torsion bar (20) is connected to the frame (3) and an operating means (26) connected to the first link mechanism (6), wherein height adjustments of a front end portion (unlabeled) of the frame (3) are carried out via the first link mechanism (6) and height adjustments of a rear end portion (unlabeled) of the frame (3) are carried out via a second link mechanism (5) by operating the operating means or user-operable adjuster mechanism (26). BY rotating user-operable adjuster mechanism (26), the upward force provided by the torsion bar (20) is modified, changing the lifting force applied to the frame (3) by the torsion bar (20) in response to varying weights of seat occupants.

With respect to claim 7, the lifter is configured for selectively adjusting a height of the frame. This selective adjustment is explained in lines 27-35 of column 4. Nagata explains that "when an occupant of different weight is seated on the seat, the operation shaft (24) can be rotatively operated by the handle (26) to displace the cam surfaces (25a) of the came member (25) stepwise and thus vary the torsional angle of the torsion bar (20), with the result that the intensity of the resiliency force of the torsion bar (20)

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can be adjusted.” The height of the frame (3) is therefore selectively adjusted by operating the operating means (26) in response to the varying weights of seat occupants.

With respect to claim 9 and 12, the second link mechanism (5) is connected between said lifter operating mechanism (26) and said rear end portion (unlabeled) of said frame (3) via the first link mechanism (6).

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 5-6 and 13-14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Nagata (4,729,539) in view of Ogasawara (JP6050374). As disclosed above, Nagata reveals all claimed elements with the exception of a suspension unit comprising a magnet unit having a movable magnet and stationary magnets or a magnetic fluid damper.

Ogasawara discloses a suspension unit (10) comprising a magnet unit (unlabeled) having a movable magnet (30) and stationary magnets (48)(50). The cylinders are each charged with a “magnetic fluid” (abstract) creating a magnetic fluid damper.

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It would have been obvious to one of ordinary skill in the art at the time of the instant invention to replace the suspension unit (17) disclosed by Nagata with a magnet suspension unit (10) as taught by Ogasawara. Such a modification would provide "high damping force" (abstract) to protect a driver from strong vibrations. Furthermore, such a device is less likely to malfunction than a gas cylinder that can develop leaks over time and use.

Response to Amendment

8. The amendment filed on January 12, 2006 has been considered in its entirety. Remaining issues are detailed in the section above.

The arguments with respect to Ritchie et al. are moot in view of the new grounds of rejection set forth above.

Reconsideration of the Nagata reference reveals that it reads on the claimed invention. The suspension unit is integral with the lifter mechanism in that it is permanently attached to the lifter mechanism at element (8). Furthermore, the lifter mechanism does provide a selective lifting force. By adjusting the operating means (26) the angle of the torsion bar (20) is modified, changing the magnitude of the upward force provided on the frame (3) by the torsion bar (20). Therefore, adjustment of the upward force ensures that occupants of varying weights are supported at a standard height.

In light of the reconsideration and application of the Nagata reference, this action is made NON-FINAL.


Conclusion

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sarah B. McPartlin whose telephone number is 571-272-6854. The examiner can normally be reached on M-Th 7:30 am - 5:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Peter Cuomo can be reached on 571-272-6856. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

SBM
March 23, 2006


Peter M. Cuomo
Supervisory Patent Examiner
Technology Center 3600